

ORIGINAL

RECEIVED

NOV 22 2000

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

EX PARTE OR LATE FILED

**verizon**

Dee May  
Executive Director  
Federal Regulatory

1300 I Street N.W., 400W  
Washington, DC 20005

Phone 202.336.7824  
Fax 202.336.7922  
dolores.a.may@verizon.com

November 22, 2000

**Ex Parte**

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> St., S.W. – Portals  
Washington, DC 20554

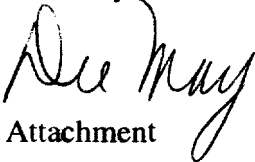
RE: Application by Verizon New England Inc., et al., for Authorization To Provide In-Region, InterLATA Services in Massachusetts, Docket No. 00-176

Dear Ms. Salas:

The attached was prepared in response to questions raised by Ms. D. Attwood and other members of the CCB staff. The information contained in the attached is consistent with what has already been put on the record in the above proceeding.

Please let me know if you have any questions. The twenty-page limit therefore does not apply as set forth in DA 00-2159.

Sincerely,

  
Attachment

cc: D. Attwood  
M. Carey  
E. Einhorn  
G. Reynolds  
S. Pie

No. of Copies rec'd 071  
List A B C D E

Dee May  
Executive Director  
Federal Regulatory



1300 I Street N.W., 400W  
Washington, DC 20005

Phone 202.336.7824  
Fax 202.336.7922  
dolores.a.may@verizon.com

November 22, 2000

**Ex Parte**

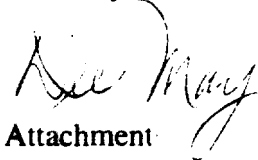
Ms. Dorothy Attwood  
Chief-Common Carrier Bureau  
Federal Communications Commission  
445 12 Street, SW, Fifth Floor  
Washington, DC 20554

**RE: Application by Verizon New England Inc., et al., for Authorization to  
Provide In-Region, InterLATA Services in Massachusetts, Docket No. 00-176**

Dear Ms. Attwood:

In response to questions raised by you and members of the Common Carrier Bureaus staff we have prepared the attached. The attachment demonstrates that Verizon has met and is exceeding its obligation to provide non-discriminatory access to all its loop information. Please let me know if you have any additional questions and would like to discuss the issue further.

Sincerely,

  
Attachment

cc: M. Carey  
E. Einhorn  
S. Pie  
G. Reynolds

Verizon is Providing Non-Discriminatory Access to Loop Qualification Information

Verizon is providing CLECs in Massachusetts with the same non-discriminatory access to the same loop qualification information as Verizon provides in New York and the FCC found met the Act's requirements. These access arrangements fully satisfy the non-discrimination requirements of the Act's competitive checklist and of the FCC's *UNE Remand Order*.

A. The Act Requires Incumbent Carriers to Provide Non-Discriminatory Access to Loop Qualification Information.

According to the Commission, sections 251 and 271 of the 1996 Act require incumbent carriers to provide CLECs with non-discriminatory access to loop qualification information. In Verizon's New York long distance application, for example, the Commission interpreted the Act's non-discrimination provision as requiring that Verizon provide to CLECs the same access to loop qualification information that is available to Verizon's retail representatives. As the Commission explained, a Bell Operating Company must "provide requesting carriers nondiscriminatory access to the systems and processes for identifying loop characteristics that it provides to its retail representatives." *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York*, 15 FCC Rcd 3953 ¶ 141 (1999). The Commission then found that Verizon met this non-discrimination requirement because Verizon's "mechanized and manual processes enable requesting carriers to access loop qualification information in substantially the same time and manner as [Verizon's] retail operations." *Id.* ¶ 143.

The Commission's finding in New York is equally applicable in Massachusetts where Verizon provides the same access to loop qualification information. Moreover, Verizon implemented its Separate Data Affiliate in Massachusetts as of November 13, 2000. Verizon's Separate Data Affiliate is now using the same mechanized loop qualification database available to non-affiliated CLECs and is accessing that database using the same pre-ordering interfaces available to non-affiliated CLECs.

In the wake of Verizon's New York long distance application, the Commission elaborated further on its interpretation of the Act's non-discrimination requirements for access to loop qualification information. In its *UNE Remand* decision, the Commission held that incumbent carriers are required to provide CLECs with access to more than just the loop qualification information that the incumbent's own retail personnel *do* obtain access to. In addition, the Commission held that incumbent carriers are required to provide CLECs with access to any loop qualification information that Verizon's own retail personnel *could* obtain access to. As the Commission explained, "the incumbent LEC must provide access to the underlying loop qualification information contained in its engineering records, plant records and other back office systems" and "[t]o the extent such information is not normally provided to the incumbent LEC's retail personnel, but can be obtained by contacting incumbent back office personnel, it must be provided to requesting carriers within the same time frame that any incumbent personnel are able to obtain such information." See *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd 3696 ¶¶ 428, 431 (1999) ("*UNE Remand Order*").

The Commission also found that the Act does not require incumbent carriers to create an electronic form access to such additional loop qualification information where such access is not provided to other incumbent carrier personnel:

We disagree, however, with Covad's unqualified request that the Commission require incumbent LECs to catalogue, inventory, and make available to competitors loop qualification information through automated OSS even when it has no such information available to itself. If an incumbent LEC has not compiled such information for itself, we do not require the incumbent to conduct a plant inventory and construct a database on behalf of requesting carriers.

*UNE Remand Order* ¶ 429. Instead, as the Commission explained, “an incumbent LEC that has manual access to this sort of information for itself, or any affiliate, must also provide access to it to a requesting competitor on a non-discriminatory basis.” *UNE Remand Order* ¶ 429. Where an incumbent carrier's retail and other personnel could obtain access to additional loop qualification information by contacting the incumbent carrier's back office personnel, the incumbent can satisfy its non-discrimination obligations by allowing CLECs to contact the incumbent's back office personnel to obtain the same information in the same time frame.<sup>1</sup>

Of course, the Commission's interpretation of the Act's non-discrimination requirements in the *UNE Remand* decision must be read in a manner that is consistent with the Act's requirements for “non-discriminatory access to unbundled network elements” generally. 47 U.S.C. § 251(c)(3). The Commission has interpreted this non-discrimination requirement to mean that the access provided to competitors must be “equal-in-quality to that which the incumbent LEC provides to itself.” *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd

---

<sup>1</sup> As explained *infra* at Section D, Verizon advised the Commission how it intended to comply with the Commission's *UNE Remand Order* in a petition for

15499, ¶ 312 (1996). As the Eighth Circuit explained, “subsection 251(c)(3) does not mandate that requesting carriers receive superior quality access to network elements on demand.” *See Iowa Util. Bd. v. FCC*, 120 F.3d 753, 812 (8th Cir. 1997).

Finally, the Commission elaboration on the Act’s non-discrimination requirements for access to loop qualification information is consistent with the Commission’s interpretation of the Act’s non-discrimination requirements in analogous contexts. For example, in its second long distance application for Louisiana, BellSouth indicated that it provided access to its poles, ducts, conduit and right of way information through its back office personnel. Upon receiving a request for such information, BellSouth personnel would locate the pertinent records, redact the proprietary information contained in those records and provide the redacted information to the competing carrier within five business days. AT&T argued that the five-business day waiting period for competitors is discriminatory because BellSouth back office personnel have instant access to engineering information. AT&T Comments on BellSouth’s Section 271 Application for Louisiana, CC Dkt. No. 98-121, at 69-70 (filed Aug. 4, 1998). The Commission properly rejected AT&T’s argument, finding that “this disparity in time is reasonable . . . given that BellSouth needs to redact its records to protect proprietary information.” *Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Louisiana*, 13 FCC Rcd 20599, ¶ 180 (1998).

The situation is no different with respect to loop qualification information. Verizon’s loop qualification information is contained in the same types of facility records

---

clarification filed last February.

and inventory systems as its pole, duct, conduit and right of way information. But the Commission's decisions make clear that Verizon is not required to provide CLECs with direct access to rummage through files of paper records and inventory systems themselves. Instead, Verizon is required to provide CLECs with the same ability to obtain information from Verizon's back office personnel as it would be available to Verizon's own retail or other personnel if they chose to request such information. And Verizon is required to provide CLECs with information from Verizon's back office personnel in the same time frame that it could be obtained by Verizon's retail or other personnel, subject to reasonable differences to permit back office personnel to redact proprietary information before the loop qualification information is provided to the CLECs.

**B. Verizon Fully Satisfies the Commission's Requirements to Provide Non-Discriminatory Access to Loop Qualification Information.**

Verizon provides three separate methods of access to Verizon's loop qualification information. These methods of access more than satisfy the Commission's requirements for non-discriminatory access to loop qualification information.

First, Verizon provides CLECs in Massachusetts with the same real time mechanized access to loop qualification information through its loop qualification database that Verizon provides in New York. The Commission found that these access arrangements in New York satisfied the Act's non-discrimination requirements. By July of this year, some 93 percent of central offices where CLECs have collocation already were included in the loop qualification database, and some individual CLECs are now

using the mechanized database to pre-qualify more than 90 percent of their DSL loop orders.

Since the filing of Verizon's New York long distance application, Verizon has expanded the information available through Verizon's mechanized database. Initially, the database contained just basic loop qualification information, such as the metallic loop length (including bridge taps) and whether the loop is qualified for the offering of ADSL service. Verizon has expanded the information available through the database to include the reason why a loop is not qualified. These reasons may include the length of the loop, the presence of Digital Loop Carrier on the loop, the presence of load coils on the loop and the presence of T-1 facilities in the binder group. Verizon provides to CLECs the same access to this database as Verizon's other personnel, but Verizon's retail personnel do not need or use all of the information in the database.

Second, Verizon will, on request, perform a Manual Loop Qualification on individual loops in offices that have not yet been surveyed and when a CLEC orders a loop, but does not pre-qualify it in the database. In response to a manual loop qualification request, Verizon will perform a Mechanized Loop Test to determine the length of the specific loop serving the customer address. (By contrast, the loop length listed in the mechanized database is based on testing a sample of loops from the terminal serving the customer address.) In addition, Verizon personnel will determine whether the loop is qualified for ADSL service and, if it is not qualified, the reasons why it is not qualified. This manual loop qualification process provides CLECs with the same information as is ordinarily available through the mechanized loop qualification process described above.

Third, Verizon provides access to loop qualification information that resides in Verizon's paper records and outside plant inventory systems through an Engineering Query (also known as an Engineering Record Request). The information Verizon provides through an Engineering Query may include, where available: (1) the composition of the loop (*e.g.*, copper, fiber, coax); (2) the existence, location and type of any electronic or other equipment on the loop (*e.g.*, digital loop carrier, remote concentration devices, feeder/distribution interfaces, bridge taps, load coils, pair-gain devices, T-1 in the binder group); (3) the loop length, including the length and location of each type of transmission media; (4) the wire gauge(s) of the loop; (5) the electrical parameters of the loop; and (6) engineering work in progress on the cables housing the loop.

While Verizon's own retail personnel have not used Engineering Queries to obtain access to this additional loop qualification information, Verizon nonetheless allows CLECs to access loop qualification information in the same manner as Verizon's retail or other personnel could obtain access to that information if they chose to do so. CLECs can access this information by submitting a request to Verizon's back office personnel who work with Verizon's paper loop records and inventory systems. Verizon's back office personnel respond to these requests from CLECs or other Verizon personnel by reviewing Verizon's paper records and loop inventory systems. Verizon responds to these requests from CLECs in the same time frame as they would respond to requests from Verizon's retail or other personnel.

C. Although Verizon is Not Required to Create Automated Access to Additional Loop Qualification Information, It Has Agreed to Do So.

Some CLECs have argued that they cannot be required to obtain loop qualification information from incumbent carriers' back office personnel, but rather are entitled to direct access to the same paper records and systems containing loop qualification information that are used by the incumbent carriers' back office personnel. Covad Comments at 41-42; ALTS Comments at 27-28. In particular, they want direct access to Verizon's Loop Facility Assignment Control System ("LFACS"). Because LFACS is primarily a loop inventory and assignment system for voice grade service, it contains limited loop qualification information for only a small fraction of the terminals in Massachusetts.

As previously explained, the Commission has already determined that incumbent carriers are not required to create electronic access to loop qualification information where the incumbent's own personnel access such information on a manual basis. Verizon's own personnel can obtain access to loop qualification information that is available in LFACS and Verizon's paper records by contacting Verizon's back office personnel and Verizon makes this same information available to CLECs through the same method of access within the same time frames. Verizon therefore has no obligation to create access to LFACS.

Furthermore, it is not feasible for Verizon to give CLECs direct access to LFACS. First, LFACS is primarily a loop inventory system that is used mostly to assign a loop to a customer address. It contains loop qualification information for only about 10 percent

of the terminals in Massachusetts, because the loops listed in the LFACS are primarily expected to meet voice grade requirements.

Second, LFACS was not designed as an “on-line” database with the ability to process a high volume of “transactions” or “queries.” If Verizon were to make direct access available to LFACS for CLECs to look up information, LFACS would not be able to provide real time responses to their queries. In fact, since the primary function of LFACS is to assign loops for service, it assigns the highest priority to those loop assignment activities. Requests for loop qualification information – whether they came from a CLEC or from Verizon’s own retail or other personnel – would be assigned a lower priority and could take hours, days or even weeks to process.

Third, providing CLECs with unrestricted direct access to LFACS, even on a read-only basis, would give CLECs access to information concerning the services being provided on particular loops, and the addresses to which they are being provided. Carriers not serving these customers should not have access to customer specific and proprietary information. But there would be no practical way for Verizon to mask that proprietary information from CLECs if they had direct access to LFACS.

Even though the Act does not require Verizon to create an automated method of access to the loop qualification information that is normally stored in LFACS, Verizon has voluntarily agreed to do so. In February 2000, Verizon made three alternative proposals to CLECs in the New York DSL collaborative proceeding. These alternatives would give CLECs automated access to information that resides in LFACS without giving them direct access to LFACS.

First, Verizon offered to develop new data fields in Verizon's existing mechanized loop qualification database and to download the limited loop qualification information available in LFACS into those fields. This alternative would ensure data availability and responsiveness to the CLECs.

Second, Verizon offered to develop a screen scraping technique that would basically simulate a user request into LFACS. This alternative is less desirable because of the limited ability of LFACS to handle requests for loop qualification information in a timely manner. In order to keep LFACS from crashing, Verizon would likely need to limit the pace at which individual CLECs could submit requests for loop qualification information.

Third, Verizon offered to contact Telcordia, which owns LFACS, to develop an interface that would access a separate database that contains loop qualification information from LFACS. Although this alternative is the most expensive in absolute terms, the total cost is still relatively small.

During March 2000, Verizon worked with the CLECs to develop a requirements document that would serve as the basis for Verizon's development of an electronic interface for access to loop qualification information. Verizon submitted the jointly developed requirements document to Telcordia to obtain a cost estimate for the third alternative.

During the New York DSL in the summer of 2000, Verizon provided the CLECs an estimate of \$700,000 for developing the second alternative and \$1.6 million for developing the third alternative. The cost of this development work would cover access to LFACS for all of the former Bell Atlantic jurisdictions and would be shared by all of

the CLECs using the system. To date, the CLECs have not indicated which alternative they want Verizon to develop or whether they will reimburse Verizon for the development of automated access to Verizon's loop qualification information. Nonetheless, Verizon is still willing to make available to CLECs automated access to Verizon's loop qualification information under one of the alternatives proposed to the CLECs.

D. The Commission Should Continue its Practice of Not Deciding Issues That Are Pending in other Proceeding.

The issue raised by some CLECs in Verizon's long distance application for Massachusetts regarding electronic access to additional loop qualification information is already pending in another docket before the Commission. The Commission has consistently declined to decide such issues in the context of Section 271 applications and the D.C. Circuit agreed with the Commission on this point.

On February 17, 2000, Verizon petitioned the Commission for clarification of the Commission's *UNE Remand Order*. In its petition, Verizon asked the Commission to clarify that incumbent carriers can satisfy their obligation to provide access to loop qualification information to competing carriers by allowing them to obtain loop qualification information from the incumbent carrier's back office personnel in the same manner as other incumbent carrier personnel can obtain the information from the incumbent's back office personnel. Verizon explained that there is no legal basis to impose a higher obligation on providing information to third parties than incumbent carriers provide to themselves.

Not surprisingly, there was very little reaction to Bell Atlantic's requested clarification that carriers seeking loop qualification information from incumbents' back office personnel obtain that information in the same manner as the incumbents' own employees. Neither Covad nor ALTS objected to Verizon's requested clarification, even though they were active participants in that proceeding.

Indeed, the only party to oppose Verizon's request – MCI WorldCom – misunderstood Verizon's petition. MCI WorldCom thought that Verizon was attempting to limit CLECs to only the information that Verizon's retail personnel actually use. That was not the purpose of Verizon's petition. Verizon's petition addressed not what information is available, but the method by which competing carriers may obtain such information. Back office personnel provide such information to Verizon's other employees without the need of intrusive hook-ups into the back office computer systems and without direct intrusion into its offices. Verizon merely sought to make available those same access arrangements to CLEC personnel.

The Commission has not yet ruled on Verizon's petition for clarification in Docket No. 96-98, and it should not do so in Verizon's pending Section 271 proceeding for Massachusetts. In fact, in its September 1, 2000 Status Report to the D.C. Circuit regarding its progress on ruling on pending petitions for reconsideration/clarification of the *UNE Remand Order*, the Commission indicated that it had not released its ruling yet because the "staff is currently assessing the record" and that "interested parties continue to meet with Commission staff to discuss issues raised in the petitions." *See United States Telecom Association v. Federal Communications Commission*, Case No. 00-1012.

As it did in the case of Verizon's New York application, the Commission here should decline to entertain any collateral attacks on its *UNE Remand Order*. The Commission explained to the D.C. Circuit that entertaining such collateral attacks would risk converting "precisely focused, extremely expedited" Section 271 "adjudications, as well as this Court's subsequent review proceedings, into forums for the mandatory resolution of major industry-wide issues already pending in traditional notice-and-comment rulemaking proceedings." *AT&T v. FCC*, D.C. Circuit Nos. 99-1538 and 99-1540, Appellee's Br. at 41. The court agreed with the Commission's decision: "given the deference we owe the Commission, particularly where, as here, it has made a judgment about the most efficient way to proceed in a complex administrative matter, we find its interpretation of the statute reasonable." *AT&T v. FCC*, 220 F.3d 607, 631 (2000).